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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,332	06/27/2001	Scott Swix	60027.0017US01/BS01039	2021
39262	7590	09/22/2006	EXAMINER	
MERCHANT & GOULD BELLSOUTH CORPORATION P.O. BOX 2903 MINNEAPOLIS, MN 55402			BILGRAMI, ASGHAR H	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/893,332

Applicant(s)

SWIX ET AL.

Examiner

Asghar Bilgrami

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11, 12 and 14-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12 and 14-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                 |                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                            | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/29/06</u> | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/20/2006 has been entered.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 16 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.  
"Wherein the media distribution device delivers to the media presentation device the portion of the media content stream modified by the local account manager and identified by the local account data module without any immediate changes to the media content stream received at the media distribution device from the media delivery service

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provider thereby allowing the customer to receive instantaneous delivery of only the portion of the media content that is part of the local account while the central account identifies a different portion of the media content stream selected for delivery than the local account. The specification does not describe the above limitation more specifically the portion that states, "While the central account identifies a different portion of the media content stream selected for delivery than the local account".

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9, 11, 12, 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al (US. PUB. 2002/0059627A1).

5. As per claim 1, 16 & 20 Thomas disclosed a media distribution system operative to selectively deliver media content to a media presentation device of a customer, the media distribution system comprising: a media delivery service provider operative to transmit a media content stream to a media distribution device (page.1, paragraph.3); a customer account database, remote from the media distribution device for maintaining a central account associated with the media distribution device, the central account identifying a portion of the media content stream that is selected for delivery to the

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media presentation device (page.6, paragraph.92); to a local account data module for maintaining a local account identifying the portion of the media content stream that is selected for delivery to the media presentation device (page.3, paragraphs.48 & 53); locally blocking a portion of the media content stream not defined in the local account data (Page.1.paragraph.9 and page paragraph, 117) a local account manager, local to the media distribution device (page.4, paragraph. 57), for modifying the portion of the media content stream identified in the local account data module (page.4, paragraph. 61-63); wherein the media distribution device delivers to the media presentation device the portion of the media content stream modified by the local account manager (page.5, paragraphs 69, 70) and identified by the local account data module without any immediate changes to the media content stream received at the media distribution device from the media delivery service provider (page.5, paragraphs 70-73) thereby allowing the customer to receive instantaneous delivery of only the portion of the media content that is part of the local account (page.5, paragraphs 77 & 78) while the central account identifies a different portion of the media content stream selected for delivery than the local account (paragraph. 81). Although Thomas did not explicitly disclose "local account data module" and "local account manager" in the media distribution module (set top box) modifying portion of the media content stream without requiring interaction with the central account data base. However Thomas did disclose that user equipment (set top box) may include sufficient hardware and software capability (local modules) (page.4, paragraph.57) to perform functionality such as to allow user to communicate with his or her system (set top box) (paragraph 63) to view upcoming

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program listing by time or category and customizing the channels etc (page.3, paragraphs.42 & 43, page.5, paragraph.72) and additionally viewing interactive advertisements (movie preview trailers) by navigating the menu rendered by user equipment (the set top box) (page.5, paragraphs 77 & 78) locally without any interaction with the central account database at a remote location. Thomas further describes that that the interaction with remoter server 180 (central account manager) with respect to customer account occurs when the customer selects a purchase button selecting the video on demand program (page.5, paragraph.81). At the time the invention was made it would have been obvious to one in the ordinary skill in the art to have incorporated the local modules that control the local management of the media content received from the media delivery provider in order to provide user with more control over viewing options and flexibility to choose a program according to their desired criteria making the media distribution system more user friendly and versatile.

6. As per claim 2 Thomas disclosed the media distribution device of Claim 1, wherein the media content is delivered over a communication link between the media distribution device and a media delivery service provider (Thomas, page.4, paragraph 56).

7. As per claim 3 Thomas disclosed the media distribution device of Claim 1, wherein the communication link is a broadband connection (paragraph.56).

8. As per claim 4 & 19 Thomas disclosed the media distribution device of Claim 3, wherein the broadband connection is an asymmetric digital subscriber line (paragraph.58).

9. As per claim 5 Thomas disclosed the media distribution device of Claim 1, wherein the communication link is a satellite connection (paragraph.39).

10. As per claim 6 Thomas disclosed the media distribution device of Claim 1, wherein the local account manager can be remotely controlled (Thomas, page.2, paragraph 41 & page.4, paragraph 59).

11. As per claim 7 Thomas disclosed the media distribution device of Claim 1, wherein the local account manager can be remotely accessed (Thomas, page.2, paragraph 41 & page.4, paragraph 59).

12. As per claim 8 Thomas disclosed the media distribution device of Claim 7, wherein the local account manager can be remotely accessed via the media adapter (Thomas, page.2, paragraph 41 & page.4, paragraph 59 & 61).

13. As per claim 9 Thomas disclosed the media distribution device of Claim 7, wherein the local account manager can be remotely accessed via the data adapter (Thomas, page.2, paragraph 41 & page.4, paragraph 59 & 61).

14. As per claim 11 Thomas disclosed the media distribution device of Claim 10, wherein the local account data module can be transmitted to the media delivery service provider (Thomas, page.2, paragraph 41 & page.4, paragraph 59).

15. As per claim 12 Thomas disclosed the media distribution device of Claim 11, wherein the media delivery service provider is operative to store the local account data module (Thomas, page.4, paragraph 59 & page.6, paragraph 91).

16. As per claim 14 Thomas disclosed the media distribution device of Claim 13, further comprising a user interface whereby the local account manager can be locally accessed (page.4, paragraph 56 & 63).

17. As per claim 15 Thomas disclosed the media distribution device of Claim 14, wherein the user interface is provided via the media presentation device (page3,paragraph.55).

18. As per claim 17 Thomas disclosed the media delivery system of Claim 16, wherein the local account manager is operative to autonomously transmit the local account data module to the media delivery service provider for storage as the central account (Thomas, page.1, paragraph 8, page.3, paragraph 45 & page.4, paragraph 59).



19. As per claim 18 Thomas disclosed the media delivery system of Claim 17, wherein the local account data module is transmitted to the media delivery service provider over an asymmetric digital subscriber line (Thomas, page.2, paragraph 41 & page.4, paragraph 59 & 61).

20. As per claim 21 Thomas disclosed the media distribution device of Claim 1, wherein when the local account manager modifies the identification of a portion of the full stream of media content, delivery of media content to the media presentation device is immediately altered without requiring access to or authorization from the media delivery service provider whereby customer account information maintained by the media delivery service provider can be reconciled with the local account data module at a later time (Thomas, page.1, paragraphs 8 & 9).

21. As per claim 22 Thomas disclosed the media delivery system of Claim 16, wherein the media distribution device blocks from being available the media presentation device portions of the media content stream not identified by the local account data module without any immediate changes to the media content stream transmitted by the media delivery service provider (page.5, paragraphs 70-73).

### ***Response to Arguments***

22. Applicant's arguments filed 20 June 2006 have been fully considered but they are not persuasive.

23. The applicant argued that claim 1 recites instantaneous delivery of only the portion that is part of the account without requiring change to the account via interaction with the central customer account manager.

As to applicant's arguments Thomas discloses that once the customer selects a specific on-demand video (specific video stream) using a user purchase code or customer ID (customer account) the movie is delivered instantaneously to the user (i.e. on the display screen of the user's monitor) from the media distribution facility or from any suitable distribution source (Set-top-box since it has the storage capability)(paragraph 81). The preceding video purchase activity is included in the customer's monthly bill, which is updated at the customer account/billing facility ("central customer account manager" as described by the applicant in claim 1). In order to bill the customer for the services used (video on demand in this case) the purchase activity has to be reported to the to the account/billing facility (central customer account manager). Even the applicant admits to this fact in the specification on page 11, lines 20-25 & page 12, lines 4-19) that the customer account modification (purchase of a video) activity is reported/communicated to the centralized customer account database. Additionally the applicant on page 13 lines 16-19 states that "Although the preferable time for transmitting local account data to the customer account management center 310 has been described as being during off-peak hours, it will be appreciated that this transmission can take place at any time."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3924. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



AB



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PRIMARY EXAMINER